

**Frequently Asked Questions (Educational Program Providers)
Judicial Conference Disclosure Policy on Judges' Attendance
at Privately Funded Educational Programs**

Question 1: Where can I find a copy of the disclosure policy?

The policy is currently available in PDF format at the following URL:
http://www.uscourts.gov/Press_Releases/judbrappc906c.pdf.

Question 2: What is the effective date of the disclosure policy?

The disclosure policy takes effect on January 1, 2007. This means that any organization covered by the policy that issues an invitation on or after January 1, 2007 (for a program commencing after that date), to a federal judge to attend an educational program as a speaker, panelist, or attendee and offers to pay for or reimburse that judge, in excess of \$305, must disclose financial and programmatic information on the judiciary's web site, www.uscourts.gov.

Question 3: My organization will conduct an educational program for judges on January 10, 2007. Are we required to disclose financial and programmatic information for that program?

No, unless you extended invitations to federal judges (for the January 10 program) on or after January 1, 2007.

Question 4: Why did the Judicial Conference adopt the disclosure policy?

The rationale and purpose for the policy are discussed in detail in a "Statement of Purpose" (<http://www.uscourts.gov/library/manuals/policypurpose.html>) that was prepared by the Judicial Conference Committee on the Judicial Branch.

Question 5: Are all nongovernmental organizations subject to the disclosure policy?

No. The Judicial Conference has determined to exclude certain organizations from the disclosure policy, including the following:

- state and local bar associations;
- national, state, and local subject-matter bar associations (as discussed below);
- judicial associations;

- the National Judicial College; and
- the Judicial Division of the American Bar Association.

Question 6: My organization is nongovernmental. Does that mean it must always make the required disclosures?

No, only if the following criteria are met:

- your organization offers to pay for or reimburse a federal judge, in excess of \$305,¹ for the expense of travel, food, lodging, or anything that would be considered to be a gift under the Judicial Conference Ethics Reform Act Gift Regulations (http://www.uscourts.gov/library/conduct_gifts.html) for attending an educational program as a speaker or participant; and
- a significant purpose of the educational program is the education of federal or state judges.

Question 7: If my organization is subject to the policy, then exactly what would we be required to disclose?

Under the policy, educational program providers are required to disclose the following information:

- (1) the name of the program's sponsors;
- (2) the name or title of the program;
- (3) the dates and location of the program;
- (4) the various presentation topics and the speakers expected respectively to address each topic; and
- (5) all the program provider's sources of support, financial or otherwise.

¹ This \$305 figure is subject to change every three years in accordance with the cost of living as determined by the Administrator of General Services. *See* 5 U.S.C. § 7342(a)(5); 41 C.F.R. sec. 102-42; *see also* 5 U.S.C. app. § 102(a)(2)(B). (This figure was last adjusted on January 1, 2005.) Seminar books and materials are not included in this figure.

Question 8: Is the disclosure policy directed solely at substantive continuing legal education programs for judges?

No, the disclosure policy is intended to cover any educational program a significant purpose of which is the education of federal or state judges. For this purpose, programs on science, medicine, history, education, etc., are potentially covered.

Question 9: My organization's funding comes from individual donors and public and private foundations. We use that funding to pay for the judges' lodging and transportation. We also have a partnership with a local university that provides (at no cost to us) meals for attendees and faculty for our programs. What are we required to disclose under the policy?

If your financial and other support is for specific programs, then you must identify every donor, including the university; however, you do not need to account for the free services of faculty (or any other lecturers). If your financial and other support comes from your general revenues, then it would be sufficient to identify the name of your organization and the university.

Question 10: What does the phrase "subject-matter bar association" mean?

For purposes of this policy, the phrase subject-matter bar association refers to an association of lawyers who practice in a specific area of the law, such as administrative, admiralty, antitrust, elder, immigration, or patent law. Associations of lawyers whose members comprise or frequently represent the same side in litigation are not considered to be subject-matter bar associations for purposes of this policy.

Question 11: What does the phrase "a significant purpose of which is the education of United States federal or state judges" mean?

The term "significant purpose" was a deliberate choice of words. The policy approved by the Conference contemplated that the education of judges could be less than the main or dominant (or even primary) purpose, but nonetheless important and not *de minimis*. The following examples are intended to illustrate the application of the "significant purpose" benchmark:

Illustration 1: A law school is sponsoring a CLE program on intellectual property for lawyers, and it intends to invite a judge (who would be reimbursed for the expenses of travel) to participate in the program as a speaker. The law school does not intend to invite or reimburse other judges for the expenses of their attendance as speakers, panelists, or students.

The policy applies to “a program, a significant purpose of which is the education of United States federal or state judges.” Based upon the facts of this case, it would appear that the education of federal and state judges is not a significant purpose of this program.

Illustration 2: A law school is sponsoring a seminar captioned, “Judging Economic and Financial Crimes.” The program faculty consists of law professors and federal judges (who will be reimbursed for the expenses of their attendance from a law school foundation). The program is marketed to federal and state judges, as well judges from other common law countries (some of whom will be reimbursed for the expenses of their attendance).

As discussed above, the policy applies to “a program, a significant purpose of which is the education of United States federal or state judges.” Based upon the facts of this case, it would appear that a significant purpose is the education of federal or state judges.

Illustration 3: A 501(c)(3) organization is sponsoring an educational program for hundreds of practicing bankruptcy practitioners, accountants, lenders, and other bankruptcy professionals. Among other things, the program will cover the current state of bankruptcy law, how to present a case, and ethics. The program is marketed to the public generally. Although judges are invited to speak and to present papers, the involvement of judges is for the purpose of informing the non-judge registrants, not to educate judges. The topics, speakers, and other details of the program are selected by the program provider to address topics of interest to professionals and to the public, not to address issues of interest to judges. No consideration is given by the organization to promote judicial education. The organization intends to invite 10 federal judges to serve on the faculty for the program, and those judges will be reimbursed for their travel expenses. Other judges are eligible to attend the program; however, they must pay for their travel expenses out-of-pocket. Judges generally account for a minor fraction of the attendees.

Once again, the policy applies to “a program, a significant purpose of which is the education of United States federal or state judges.” Under the facts set forth above, it does not appear that the program has, as a significant purpose, the education of judges. Therefore, the program would not appear to be covered by the policy.

Question 12: What does the phrase “attending, as a speaker or participant” mean?

The policy, by its terms, applies to a judge who attends an educational program as a speaker, panelist, student, or member of the audience.

Question 13: We are a local affiliate of a national association of lawyers whose members comprise or frequently represent the same side in litigation. We regularly invite judges (both federal and state) to speak at or participate in educational programs that are conducted during our annual meeting. The annual meeting is funded in part by registration fees and private sponsors, who provide support financially or in kind for specific events. What exactly must we report?

Assuming a significant purpose of the educational programs is the education of federal or state judges and your association offers to pay for or reimburse individual judge-invitees in excess of \$305, then you would be required to disclose the names of sponsors (e.g., law firms, corporations, individuals, etc.) that donated money, goods, or services specifically for the meeting. It is not necessary for your association to report the actual amount of money donated, nor must you assign a monetary value to the goods or services donated. Also, your association would not be required to disclose and report monies raised from registration fees.

Question 14: My organization is cosponsoring a Federal Judicial Center (FJC) seminar. The expenses of the judges' attendance (i.e., the judges' transportation, lodging, and subsistence) will be paid by the FJC by way of reimbursement. My organization will provide the seminar books and other background materials for the program. Are we required to file a disclosure report?

No, based upon the fact it does not appear that your organization intends to pay for or reimburse judges' expenses (i.e., travel, food, lodging, or anything that would be considered a gift under the Judicial Conference Ethics Reform Act Gift Regulations) above the \$305 threshold. While the seminar books and materials may be of value, they are specifically exempted from the disclosure reporting requirement.

Question 15: My organization intends to reimburse state and federal judges for speaking at a rule of law program for judges and attorneys from Asia. Are we required to file a disclosure report?

No. In this context, it does not appear that a significant purpose of your rule of law program is the education of federal or state judges.

Question 16: My organization must disclose financial and programmatic information in connection with an upcoming educational program. Is there a particular form we should use?

The Administrative Office of the U.S. Courts is developing an automated reporting system. It will be available on the judiciary's internet website (www.uscourts.gov) in the near future.

Question 17: Is my organization required to disclose the names of the individual judges who attended our educational program?

No. Under the policy, judges must personally report within 30 days of the conclusion of the program the dates of their attendance, the name of the program provider, and the title of the program.

Question 18: If my organization plans to conduct multiple educational programs for judges in a calendar year, do we have to file a separate disclosure report for each program?

Yes, financial and programmatic information for each educational program should be reported separately.

Question 19: Where will my organization's disclosure report be posted?

Your disclosure report will be posted nationally on www.uscourts.gov.

Question 20: How long will my organization's disclosure report be posted on www.uscourts.gov?

Your report will be posted for a period of three years from the date of filing.

Question 21: We still have questions about the policy? Whom should we contact?

You may contact Steve Tevlowitz in the Administrative Office's Office of General Counsel at Steve.Tevlowitz/DCA/AO/USCOURTS.